

PUBLIC VERSION

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August 20, 2019

By ECFS

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: ***Iowa Network Access Division Tariff F.C.C. No. 1, WC Docket No. 18-60,
Transmittal Nos. 40-43***

Dear Ms. Dortch:

AT&T Services, Inc. (“AT&T”) hereby submits the **Public Version** of an ex parte letter in support of its Petition to Reject or to Suspend and Investigate the proposed tariff in Transmittal Nos. 40-43 filed by Iowa Network Services, Inc. d/b/a Aureon Network Services (“Aureon”). Consistent with the Commission’s rules and the March 26, 2018 Protective Order entered by the Commission Staff, AT&T has redacted all “Confidential Information” from the **Public Version**, which it is filing by ECFS.

AT&T is also filing by hand with the Secretary’s office four hard copies of the **Confidential Version** of this submission. In addition, copies of all versions of the submission are being served electronically on Aureon’s counsel. Two copies are also being provided to Joseph Price at the Wireline Competition Bureau.

Please contact me if you have any questions regarding this matter.

/s/ James F. Bendoragel, Jr.
James F. Bendoragel, Jr.

Enclosures

Cc: James L. Troup, Counsel for Aureon
Tony Lee, Counsel for Aureon
Gil Strobel, FCC
Victoria Goldberg, FCC
Edward Krachmer, FCC

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Marlene H. Dortch

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Washington, DC 20554

Re: ***Iowa Network Access Division Tariff F.C.C. No. 1, WC Docket No. 18-60,***
Transmittal Nos. 40-43

Dear Ms. Dortch:

This *ex parte* filing is submitted on behalf of AT&T Services, Inc. (“AT&T”), for two primary reasons. First, it requests that the Commission prescribe a rate for Centralized Equal Access (“CEA”) service for the period since March 1, 2018 no higher than \$0.00164/min. Second, it identifies additional concerns regarding the circuit data used by Iowa Network Services, Inc. d/b/a Aureon Network Services (“Aureon”) in allocating Central Office Equipment (“COE”) and Cable & Wire Facilities (“C&WF”) costs to its CEA service.

I. Aureon Has Effectively Conceded That the Rate for CEA Service Since March 1, 2018 Can Be No Higher Than \$0.00164/min.

In its *Second Rate Order*, the Commission ordered Aureon to file a revised tariff by April 29, 2019.¹ Although Aureon filed a revised tariff on that date, it has since pushed the effective date of its tariff to October 15, 2019 through a series of deferral requests.² Given Aureon’s repeated delays, and its continued inability since February 2018 to file a just and reasonable rate for its CEA service, the Commission should prescribe a rate for that service no higher than \$0.00164/min., and direct Aureon to calculate refunds based on that rate for the period March 1, 2018 to October 15, 2019. As AT&T has previously demonstrated, Aureon has all but conceded that \$0.00164/min. is a reasonable rate for the period since March 2018.³ Further, the record

¹ See Memorandum Opinion and Order, *In the Matter of Iowa Network Access Division Tariff F.C.C. No. 1*, 2019 WL 1010709, ¶ 1 (Feb. 28, 2019) (“*Second Rate Order*”).

² See Transmittal No. 43 at 1, *In the Matter of Iowa Network Access Division Tariff F.C.C. No. 1*, WC Docket No. 18-60, (July 22, 2019).

³ See AT&T Ex Parte at 3-5, *In the Matter of Iowa Network Access Division Tariff F.C.C. No. 1*, WC Docket No. 18-60 (June 3, 2019) (“AT&T Ex Parte”).

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evidence supports the imposition of an even lower rate of **[[BEGIN CONFIDENTIAL]]** **[[BEGIN CONFIDENTIAL]]** and the Commission clearly has the power to prescribe such a rate.⁵

Alternatively, the Commission should issue an order directing Aureon to show cause why the rate for its CEA service for the period since March 2018 should not be set at **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]**. The basis for that rate is fully set forth in the Second Supplemental Declaration of AT&T's expert witness Brian M. Pitkin.⁶ And, despite being provided with multiple opportunities to rebut the data and assumptions underlying Mr. Pitkin's rate calculations, Aureon has failed to do so.⁷ Accordingly, the Commission would be fully justified in issuing a show cause order.⁸

II. Additional Concerns Related to Aureon's Circuit Data

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⁴ *Id.* at 5.

⁵ *Id.* at 3.

⁶ *See id.*, Second Supplemental Declaration of Brian M. Pitkin, ¶¶ 3-8.

⁷ *See* AT&T Ex Parte at 5.

⁸ As an extension of its authority under the Communications Act, 47 U.S.C. § 154(i), the Commission has previously issued show-cause orders in an effort to resolve tariff investigation proceedings. *E.g.*, *In the Matter of LEC Access Tariff Rate & Earnings Levels*, 5 F.C.C. Rcd. 1308, ¶¶ 21-24 (1990) (discussing the Commission's authority to issue show-cause orders in its investigation of carriers' rates); *In the Matter of LEC Access Tariff Rate Levels, Order to Show Cause*, 4 F.C.C. Rcd. 762 (1988) (issuing an order to show cause where there was "no indication that many of the LECs with apparently excessive rates intend[ed] to correct them as the Commission contemplated").

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In sum, the Commission should prescribe a rate of \$0.00164/min or less for the period March 1, 2018 to the effective date of Aureon's next tariff filing, or at the very least, issue an order directing Aureon to show cause why the rate for that period should not be set at the level [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] Mr. Pitkin has demonstrated is appropriate. In addition, the Commission should direct Aureon to address in its next tariff filing the circuit issues discussed above as well as the other issues identified in AT&T's June 3 *ex parte* submission.

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Sincerely,

/s/ James F. Bendernagel, Jr.

James F. Bendernagel, Jr.
Partner

Enclosures

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